

**DEPARTMENT OF FOOD AND AGRICULTURE**

A.G. KAWAMURA, Secretary



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**NOTICE OF A CONSOLIDATED PUBLIC HEARING TO CONSIDER  
AMENDMENTS TO THE STABILIZATION AND MARKETING PLANS  
FOR MARKET MILK FOR THE NORTHERN CALIFORNIA AND  
SOUTHERN CALIFORNIA MARKETING AREAS**

Notice is hereby given that the California Department of Food and Agriculture is calling a consolidated public hearing to consider amendments to the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas (Plans).

**Hearing Date, Place and Time** - The hearing will be held on February 1, 2005, in the Auditorium of the Secretary of State Building, 1500 11th Street, Sacramento. The hearing will begin at 9:00am. To ensure opportunity for all persons in attendance to enter testimony and evidence into the hearing record, if necessary the hearing will be continued to the following day, February 2, 2005, at the same location.

The hearing is called pursuant to Articles 7 and 8, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code (FAC), as implemented by Title 3, Section 2080.2 of the California Code of Regulations (3 CCR 2080.2). The hearing noticed herein will be conducted in accordance with the procedures prescribed in 3 CCR 2080.4.

**Petitions Received by the Department** – On September 7, 2004, the Department received a petition from Land O'Lakes (LOL), requesting a public hearing to consider amendments to the Plans. The LOL petition proposes amendments:

1. to the manufacturing cost allowances and f.o.b. California price adjuster in the Class 4a pricing formula (milk used to make butter and nonfat dry milk); and
2. to the manufacturing cost allowances, f.o.b. California price adjuster and the cheese yield in the 4b pricing formula (milk used to make cheese, other than cottage cheese).

This petition is considered pursuant to FAC Sections 62031 through 62079, and 3 CCR 2080.2. A copy of the petition can be obtained by accessing the Department's web site at [www.cdfa.ca.gov/dairy](http://www.cdfa.ca.gov/dairy) or by contacting the Dairy Marketing Branch at (916) 341-5988. The web site information can be accessed from the dairy home page, by clicking *Announcements*; *Hearings and Statutes*; then *Dairy Hearing Matrix*; then go to #8, *Class 4b*.

**Call of Hearing** - The hearing will consider LOL's proposed changes to specific components of the current Class 4a and 4b pricing formulas. The hearing will also consider any other aspect of the Class 4a and 4b pricing formulas that are raised by alternative proposals received in time and format specified below. Additionally, because the Class 4a price forms the base of the Class 2 and 3 prices, the hearing will consider adjustments to the Class 2 and 3 pricing formulas. The hearing will also consider the factual basis, evidence and the legal authority upon which to make any and/or all of the proposed amendments to the Plans. (Reference Article III, Section 300, Paragraphs (B), (C), (D) and (E) of the Plans.)

Interested parties should also refer to the pricing criteria established in FAC Article 9, Chapter 2, of Part 3, Division 21 and the declarations, purposes, goals and requirements of the Milk Stabilization Program as codified in FAC Chapter 2 and FAC Sections 62062, and 62063.

**Alternative Proposals** – All Interested parties are entitled to submit proposals detailing alternative adjustments in the Class 2, 3, 4a and 4b price formulas. Alternative proposals must be signed by a responsible party and received by the Department's Dairy Marketing Branch no later than 4:00pm on Tuesday, January 4, 2005. The Dairy Marketing Branch's office location is the Downtown Plaza, 560 J Street, Suite 150, Sacramento. Alternative proposals may be sent electronically via email to [dairy@cdfa.ca.gov](mailto:dairy@cdfa.ca.gov), faxed to (916) 341-6697, or mailed to Hearing Officer, c/o CDFA Dairy Marketing Branch, 1220 N Street, Sacramento, CA 95814.

At the hearing the Department will receive testimony and evidence, both oral and documentary. Interested parties who wish to introduce testimony and/or exhibits shall provide the Hearing Officer at the hearing six (6) copies of such documents for the official record, as well as one copy for the court reporter. In addition, the Department encourages participants to make additional copies available for use by other hearing participants.

Copies of the transcripts of testimony received at the hearing will not be available for distribution via the Department, but are available for inspection at the Dairy Marketing Branch. If interested parties wish to purchase copies, arrangements may be made with the reporting service at the hearing.

**Final Decisions Resulting from the Hearing** - The final decisions resulting from this hearing will be issued in accordance with the procedures and criteria contained in Chapter 2 of Division 21 of the FAC, as necessary.

The Department's decision will include consideration of all relevant economic factors including, but not limited to, the following:

- The reasonableness and economic soundness of market milk prices for all classes, giving consideration to combined income from those classes, in relation to cost of production and marketing for all purposes including manufacturing;
- Whether prices will insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes, including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable;

- Whether prices, including the prices of components of milk, established by the Secretary for the various classes of market milk bear a reasonable and sound economic relationship to each other;
- Whether the amendments would be in accord with all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62062, 62063, 62074.5, 62076 and 62077.

**Ex Parte Communications Prohibited** - From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues with any person having an interest in the proceeding. Procedural matters are not subject to the above prohibition and may be discussed at any time.

**Public Workshop** - To assist interested persons in preparing for the hearing, a public workshop will be held on January 19, 2005 at the Holiday Inn Capitol Plaza , 300 J Street, Sacramento in the Grenada Room, beginning at 9:00 a.m. At this workshop, interested persons can review and discuss all proposals submitted with Department staff and other interested parties. The Department will supply background and analysis of the petitions and only those alternative proposals submitted by the January 4th deadline. The workshop will be informal and educational in nature. Discussion during the workshop will not be part of the official hearing record **and shall not be considered in rendering a decision.**

The Department's entire hearing exhibit for this hearing will be available for public inspection at the Dairy Marketing Branch office on January 25, 2005.

If any interested party has questions regarding the call of this hearing or needs assistance in developing language for a proposal, please contact Tom Gossard at (916) 341-5988.

Media contacts and publication staff are asked to contact the Department's Public Affairs Office by e-mail at [cdfapublicaffairs@cdfa.ca.gov](mailto:cdfapublicaffairs@cdfa.ca.gov) or by phone at (916) 654-0462.

All interested persons are invited to attend and participate in both the public workshop and the hearing. Interested parties are encouraged to present any data or information that is relevant to the consideration of the issues raised in the call of this hearing.

**Persons with Disabilities** - The Department of Food and Agriculture wishes to ensure that all members of the public have access to all public meetings. If you require a special accommodation, please contact Cheryl Gilbertson at (916) 341-5988 or TDD (800) 735-0193 at least five days before the workshop or hearing date.

*Original signed by:*

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Kelly Krug, Director  
Division of Marketing Services

*September 22, 2004*  
Date \_\_\_\_\_